

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION**

**ROI DEVELOPERS, INC.,  
d/b/a ACCRUVIA,**

**Plaintiff,**

**v.**

**ATHENA BITCOIN, INC.,**

**Defendant.**

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**Civil Action No. 4:22-cv-00073-O**

**PLAINTIFF’S PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Pursuant to the February 23, 2022, Scheduling Order (Dkt. #6) (¶8), Plaintiff ROI Developers, Inc., d/b/a Accrivia (“Accrivia”) submits this its Proposed Findings of Fact and Conclusions of Law:

**Proposed Findings of Fact**

1. Accrivia is a software development company based in Tarrant County, Texas.
2. Accrivia and Defendant Athena Bitcoin, Inc. (“Athena”) had a valid, enforceable agreement for Accrivia to perform software development and other work for Athena.
3. Accrivia performed software development and other work for in 2021, as per the parties’ agreement.
4. Athena received, utilized and benefited from Accrivia’s work.
5. Athena paid for some of the work done by Accrivia, as invoiced by Accrivia, but did not pay Accrivia for the full amount of work performed.
6. Accrivia submitted two additional invoices (one for \$8,428.34 and one for \$75,250.57) for payment for work.

7. Athena owes Accruvia for the work shown in the two invoices.
8. Athena has not paid Accruvia for any of the work in question as invoiced by Accruvia.
9. Athena did not comply with the parties' agreement when it failed to pay the two invoices totaling \$83,678.91.
10. Athena knew that it was to be charged for the work, Athena accepted the work, Athena used the work, and Athena was reasonably notified that Accruvia was expecting to be paid by Athena.
11. Athena breached its agreement to pay Accruvia for the work Accruvia did for Athena.
12. Alternatively, Athena is liable under a quantum meruit theory for damages to Accruvia.
13. Accruvia suffered damages under its breach of contract claim in the amount of \$83,678.91. Alternatively, Accruvia suffered the same amount of damages under a quantum meruit claim.
14. Accruvia is a prevailing party for purposes of attorneys' fees.
15. Accruvia incurred necessary and reasonable attorneys' fees in the amount of \$*[final number to be provided at trial]* in pursuing its claims here.
16. Accruvia has shown that it has met all requirements for obtaining attorneys' fees.
17. Accruvia is entitled to \$*[final number to be provided at trial]* in costs.
18. Accruvia is also entitled to all costs of Court.
19. Accruvia is entitled to a judgment to be rendered the amounts of damages, attorneys' fees and interest herein.

### **Proposed Conclusions of Law**

1. The Court has jurisdiction over this case pursuant to 28 U.S.C. §§1332 and 1441. 28 U.S.C. §§1332 and 1441,

2. Accrivia's claim for breach of contract required Accrivia to show, as it has: (1) a valid contract; (2) performance by Accrivia as contractually required; (3) a breach by Athena; and (4) damages due to the breach. *Harrison Co., L.L.C. v. A-Z Wholesalers, Inc.*, No. 21-11028, 2022 U.S. App. LEXIS 22364, \*7 (5<sup>th</sup> Cir. April 11, 2022).

3. Accrucia's claim for quantum meruit required Accrivia to show, as it has: (1) valuable services were rendered or materials furnished; (2) for the person sought to be charged; (3) those services and materials were accepted by the person sought to be charged, and were used and enjoyed by him; and (4) the person sought to be charged was reasonably notified that the plaintiff performing such services or furnishing such materials was expecting to be paid by the person sought to be charged. *Oto Analytics, Inc. v. Cap. Plus Fin., LLC*, No. 3:21-CV-2636-B, 2022 U.S. Dist. LEXIS 85031, \*40 (N.D. Tex. May 11, 2022).

4. Accrivia is entitled to reasonable and necessary attorneys' fees under TEX. CIV. PRAC. & REM. CODE §38.001. TEX. CIV. PRAC. & REM. CODE §38.001.

Dated this 22nd day of December, 2022.

Respectfully submitted,

/s/ Kelly Stewart

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**ATTORNEY FOR PLAINTIFF**

**CERTIFICATE OF SERVICE**

I certify on the 22nd day of December, 2022, I served this document via email to counsel of record.

/s/ Kelly Stewart